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Office of School Improvement
Field Services Unit

Technical Assistance Packet
Working with Private Schools

***Title II, Part A – Teacher and Principal
Training and Recruiting***

*Providing for Equitable Participation of Private School
Teachers and Other Educational Personnel*

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Title II, Part A: Providing for Equitable Participation of Private School Teachers and Other Education Personnel

Services

The Teacher and Principal Training and Recruiting Fund provides assistance for preparing, training, recruiting and retaining high-quality teachers. This program is governed by the Uniform Provisions of Title IX, Part E, Section 9501, but the amount of funding available for services to private school personnel is governed by Section 9501(b)(3), which requires equitable participation of private school teachers and other education personnel to the extent that the Local Educational Agency (LEA) uses its funds for professional development.

The LEA is obligated to involve personnel from eligible private schools in the planning, implementation and evaluation of Title II, Part A services.

For the purposes of determining the amount of program funds to be made available for services to private school teachers, the law “imputes” a minimum amount of program funds devoted to professional development as the total amount spent in fiscal year 2001 for professional development under the predecessor Eisenhower Professional Development Program. Activities may include improving teachers’ knowledge in the core academic subjects and effective instructional teaching strategies; technology integration training; training in teaching students with different learning styles; training in using assessments to improve instruction and student outcomes; training in involving parents more effectively; and education leadership development.

Consultation (as per Title II, A Guidance revised 1/16/04)

- As part of the application process, LEAs must assure that they will comply with Section 9501 of ESEA (regarding participation by private school children and teachers). LEAs must consult with appropriate private school officials during the design, development, and implementation of the professional development program on such issues as:
 1. how the needs of staff will be identified;
 2. what services will be offered;
 3. how, where, and by whom the services will be provided;
 4. how the services will be assessed and how the results of the assessment will be used to improve those services;
 5. the size and scope of the equitable services;
 6. the amount of funds available for those services; and
 7. how and when the LEA will make decisions about the delivery of services.
- Consultation on the delivery of services must also include a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers [Section 9501].

- To ensure timely and meaningful consultation, an LEA must consult with appropriate private school officials during the design and development of the proposed programs. It is important that attention be given to the timing of the consultation so that decisions that affect the opportunities of eligible private school teachers to participate in Title II, Part A program activities are made only after discussions have taken place. The quality of the consultative process will likely have an effect on the quality of services to private school teachers [Section 9501(c)(3) and (4)].
- The LEA is required to contact appropriate officials of all private schools within the boundaries of the school district *annually* to determine if they want their teachers to participate in the Title II, Part A program, regardless of whether or not those officials have recently indicated any interest in program participation.
- The LEAs must administer and retain control over the funds and, therefore, may not provide program funds directly to private schools. Before determining the amount of funds to be provided for services to private school teachers, an LEA could pay reasonable and necessary administrative costs of providing those services from its Title II, Part A allocation.

Documentation

Each LEA shall maintain a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred.

- Document the meeting, discussion, process and the final plan which should include:

Required Documentation

Letter of invitation to plan
Documentation of private school consultation

Suggested Documentation

Minutes of meetings
Needs assessments used by private schools
Plan for delivery of service
Program evaluation process

- LEAs may request documentation, as needed, from private school officials that can help the LEA identify services that may be appropriate to the needs of private school teachers. However, requiring a formal application may, depending upon its form and content, constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school teachers.
- To meet its general record-keeping responsibility, an LEA should document that:
 - (a) representatives of private schools were informed of the availability of Title II,

Part A services; (b) the needs of private and public school teachers were identified as part of a district-wide needs assessment; (c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and (d) the LEA designed a project that would permit their equitable participation.

- The LEA also should maintain records of its efforts to resolve any complaints made by private school representatives that LEAs that should be serving their teachers are not doing so on an equitable basis.

Allocation

- Under Title II, Part A, LEAs are required to provide equitable services for private school teachers and other educational personnel only to the extent that they use the funds for professional development. For purposes of determining the amount of Title II, Part A funds that an LEA must make available for equitable services to private school teachers and other educational personnel, the statute has the LEA assume that it is spending at least as much for professional development under Title II, Part A as it did in FY 2001 under the Eisenhower Professional Development [Section 9501(b)(3)(B)].
- As noted above, for purposes of determining the amount of Title II, Part A funds it must reserve for professional development provided to private school teachers, the LEA must assume that it is spending at least as much Title II, Part A funds each year for professional development as it did with FY 2001 funds under the former Eisenhower Professional Development and Class-Size Reduction programs. Hence, the district must provide equitable services based on this minimal amount to private school teachers and other educational personnel even if the LEA transfers some Title II funds to other programs.
- To ensure that it is providing equitable professional development services to private school teachers and other educational personnel, the LEA should consider ways to:
 1. Assess, address, and evaluate the needs and progress of both public and private school teachers;
 2. Spend an equal amount of funds per student to serve the needs of public and private school teachers and their students;
 3. Provide private school teachers with an opportunity to participate in Title II activities equivalent to the opportunity provided public school teachers; and
 4. Offer educational services to private school teachers that are secular, neutral, and non-ideological [Section 9501(a)(2)].

Resources

- Refer to Guidance and Uniform Provisions for more information.



Office of School Improvement
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Working with Private Schools

Title II, Part A

Appendix



Title II, Part A Calculation of Private Schools' "Equitable Participation"

Worksheet for School Year _____

STEP 1: List the private schools located within your district's boundaries along with the enrollment of each school:

Private School	Enrollment
	Total

STEP 2: Determine the amount the district has designated for professional development from the Title II, Part A allocation.

= _____

STEP 3: Calculate the total of the 2001-02 Eisenhower allocation for the district and each private school combined.

= _____

STEP 4: Compare the two amounts (from STEP 2 and 3). Select the larger of the two amounts. This is the "BASE."

STEP 5: Calculate the total number of students enrolled in the Public School AND in the Private Schools.

= _____

STEP 6: Divide the BASE (STEP 4) by the total of students enrolled in the Public School and Private Schools (STEP 5) to produce the "Per-Pupil" amount:

(Per-Pupil Amount)

- The Public School's "share" = Per-Pupil amount X Public School's Enrollment
- Each Private School's "share" = Per-Pupil amount X Private School's Enrollment



Office of School Improvement
Field Services Unit

Technical Assistance Packet
Working with Private Schools

Title II, Part A

Resources





IMPROVING TEACHER QUALITY STATE GRANTS

TITLE II, PART A

NON-REGULATORY GUIDANCE

Revised
January 16, 2004

Academic Improvement and Teacher Quality Programs
Office of Elementary and Secondary Education
U.S. Department of Education

PRIVATE SCHOOL PARTICIPATION

Under the *Title II, Part A* program, private school teachers, principals, and other educational personnel are eligible to participate to the extent that the LEA uses funds to provide for professional development for teachers and other school personnel.

General Issues

Q-1. Are private school teachers, principals, and other educational personnel eligible to participate in the *Title II, Part A* program?

A-1 Yes. Private school teachers, principals, and other educational personnel are eligible to participate in *Title II, Part A*, to the extent that the LEA uses funds to provide for professional development for teachers and others. Funds awarded to SEAs and LEAs under *Title II, Part A* are subject to the uniform provisions of Section 9501 of the ESEA (*Participation by Private School Children and Teachers*). The statute requires LEAs to provide private school children, their teachers, and other educational personnel with educational services on an equitable basis and in a timely manner.

The requirement for the equitable participation of private school teachers and other educational personnel applies only to the LEA's *Title II, Part A* funds to the extent that the LEA uses these funds for professional development of its teachers and other staff. However, this flexibility is constrained by the requirement [described below in J-3](#).

Q-2. What is meant by “equitable participation?”

A-2 Participation is considered to be equitable if the public and private educational agencies and institutions: (1) assess, address, and evaluate the needs and progress of both groups of teachers in the same manner; (2) provide approximately the same amount of training, and where appropriate, instruction, to teachers with similar needs; (3) spend an equal amount of funds per student to serve public and private school teachers; and (4) provide private school teachers with an opportunity to participate in *Title II, Part A* program activities equitable to the opportunity provided public school teachers.

Q-3. How does an LEA determine the minimum amount required for equitable services to private school teachers and other educational personnel?

A-3 Under *Title II, Part A*, LEAs are required to provide equitable services for private school teachers and other educational personnel only to the extent that they use the funds for professional development. For purposes of determining the amount of *Title II, Part A* funds that an LEA must make available for equitable services to private school teachers and other educational personnel, the statute has the LEA assume that it is spending at least as much for professional development under *Title II, Part A* as it did in FY 2001 under the Eisenhower Professional Development and Class-Size Reduction programs [*Title IX, Section 9501(b)(3)(B)*].

Q-4. If a school district exercises *Title VI* transferability authority and moves funds from *Title II, Part A* to another covered program, is the district required to provide the “hold harmless” amount for private school teachers’ professional development?

A-4 Yes. As noted in J-3 above, for purposes of determining the amount of *Title II, Part A* funds it must reserve for professional development provided to private school teachers, the LEA must assume that it is spending at least as much *Title II, Part A* funds each year for professional development as it did with FY 2001 funds under the former Eisenhower Professional Development and Class-Size Reduction programs. Hence, the district must provide equitable services based on this minimal amount to private school teachers and other educational personnel even if the LEA transfers some *Title II* funds to other programs.

Q-5. What are the obligations of the LEA regarding the participation of private school teachers in professional development programs funded under this program?

A-5 As part of the application process, LEAs must assure that they will comply with Section 9501 of ESEA (regarding participation by private school children and teachers). LEAs must consult with appropriate private school officials during the design, development, and implementation of the professional development program on such issues as:

- how the needs of children and teachers will be identified;
- what services will be offered;
- how, where, and by whom the services will be provided;
- how the services will be assessed and how the results of the assessment will be used to improve those services;
- the size and scope of the equitable services;
- the amount of funds available for those services; and
- how and when the LEA will make decisions about the delivery of services.

Consultation on the delivery of services must also include a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers [Section 9501].

Q-6. What happens if an LEA chooses not to participate in the *Title II, Part A* program and a private school in that LEA expresses a desire to do so?

A-6 There is no authority for allowing non-public schoolteachers to receive services if the LEA elects not to participate in the program, nor does the program statute authorize an SEA to reallocate funds to another LEA for the purpose of allowing participation of teachers at a private school located in a nonparticipating LEA.

Eligible Activities

Q-7. What are some of the eligible activities under this program in which private school teachers and other educational personnel may participate?

A-7 As with any activity that the LEA carries out for public school teachers, activities supported with *Title II, Part A* funds that benefit private school teachers must meet the requirements of the statute. For example, activities to be carried out for private school personnel must be based on a review of scientifically based research and must be expected to improve student academic achievement. Professional development activities may include:

- Improving the knowledge of teachers, principals, and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods, and skills;
- Training in effectively integrating technology into curricula and instruction;
- Training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students;
- Training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education;
- Leadership development and management training to improve the quality of principals and superintendents; and
- Training in the use of data and assessments to improve instruction and student outcomes.

Q-8. Must the expenditures that the LEA provides for professional development for private school teachers be equal on a per-pupil basis?

A-8 *Title IX*, Section 9501 of ESEA requires that *Title II, Part A* services for professional development that are provided to private school teachers and other educational personnel be equitable in comparison to those provided to public school teachers. It also requires that funds provided for professional development for private school teachers be equal on a per-pupil basis.

Q-9. How does the LEA ensure that it is providing equitable services?

A-9 To ensure that it is providing equitable professional development services to private school teachers and other educational personnel, the LEA should consider ways to:

- Assess, address, and evaluate the needs and progress of both public and private school teachers;
- Spend an equal amount of funds per student to serve the needs of public and private school teachers and their students;
- Provide private school teachers with an opportunity to participate in *Title II* activities equivalent to the opportunity provided public school teachers; and
- Offer educational services to private school teachers that are secular, neutral, and non-ideological [Section 9501(a)(2)].

Q-10. Does the professional development program for private school teachers have to be the same as the professional development program for public school teachers?

A-10 No. Consultation and coordination are essential to ensuring high-quality, sustained, intensive, and classroom-focused professional development activities for private school teachers. LEAs must assess the needs of private school teachers in designing the professional development program for private school teachers. If the professional development needs of the private school teachers are different from those of public school teachers, the LEA, in consultation with private school representatives, should develop a separate program.

Q-11. May funds be used to pay stipends to private school teachers participating in a *Title II, Part A* professional development program?

A-11 Yes. *Title II, Part A* funds may be used to pay for stipends for private school teachers, as reasonable and necessary. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours. Stipends for private school teachers must be available on the same basis as those for public school teachers *and* the stipends must be paid directly to the private school teachers for their own use, and not to the private school.

Q-12. May *Title II, Part A* funds be used to pay any portion of a private school teacher's salary or benefits?

A-12 No. While LEAs must set aside an amount of *Title II, Part A* funds for the equitable participation of private school teachers in professional development activities, funds may not be used to pay or subsidize any portion of a private school teacher's salary or benefits.

Q-13. May *Title II, Part A* funds be used to pay for substitute teachers who replace teachers from private schools while they attend professional development activities?

A-13 No. The *Title II, Part A* program does not authorize payments to private schools to be used for hiring substitute teachers.

Q-14. May administrative costs be considered in determining the per-teacher expenditures for private school teachers?

A-14 No. LEAs pay the costs of administering professional development programs for public and private school teachers and other educational personnel "off the top" of their allocations. This is calculated before determining how much of the *Title II, Part A* funds are to be made available for professional development of public and private school teachers and other personnel.

LEAs and Private Schools

Q-15. When must an LEA consult with appropriate private school officials?

A-15 To ensure timely and meaningful consultation, an LEA must consult with appropriate private school officials during the design and development of the proposed programs. It is important that attention be given to the timing of the consultation so that decisions that affect the opportunities of eligible private school teachers to participate in *Title II, Part A* program activities are made only after discussions have taken place. The quality of the consultative process will likely have an effect on the quality of services to private school teachers [Section 9501(c)(3) and (4)].

Q-16. Must an LEA contact the officials of all private schools every year, even when there have been no recent indications of a desire to participate in the *Title II, Part A* program?

A-16 Yes. The LEA is required to contact appropriate officials of all private schools within the boundaries of the school district *annually* to determine if they want their teachers to participate in the *Title II, Part A* program, regardless of whether or not those officials have recently indicated any interest in program participation.

Q-17. May an LEA require private school representatives to submit an application in order to receive services for the teachers in a private school with *Title II, Part A* funds?

A-17 LEAs may request documentation, as needed, from private school officials that can help the LEA identify services that may be appropriate to the needs of private school teachers. However, requiring a formal application may, depending upon its form and content, constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school teachers.

Q-18. What kinds of records should an LEA maintain in order to show that it has met its responsibilities for equitable participation of private school teachers?

A-18 To meet its general record-keeping responsibility, an LEA should document that: (a) representatives of private schools were informed of the availability of *Title II, Part A* services; (b) the needs of private and public school teachers were identified as part of a district-wide needs assessment; (c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and (d) the LEA designed a project that would permit their equitable participation.

The LEA also should maintain records of its efforts to resolve any complaints made by private school representatives that LEAs that should be serving their teachers are not doing so on an equitable basis.

Q-19. Must the LEAs administer and retain control over the *Title II, Part A* funds used to serve private school teachers?

A-19 Yes. The LEAs must administer and retain control over the funds and, therefore, may not provide program funds directly to private schools. Before determining the amount of funds to be provided for services to private school teachers, an LEA could pay reasonable and necessary administrative costs of providing those services from its *Title II, Part A* allocation.

Q-20. May professional development be conducted within private schools?

A-20 Yes, professional development activities may be conducted in the private school facilities.

Q-21. Does the law require that LEAs provide equitable services with *Title II, Part A* funding only to private “nonprofit” schools?

A-21 Yes. Section 9501(a) requires LEAs to provide equitable services to teachers and students in “private elementary and secondary schools.” NCLB defines “elementary” and “secondary” schools to mean only “nonprofit institutional day or residential school(s)” [Section 9101(18) and (38)].

Q-22. Are teachers employed with *Title I* funds who provide services to eligible private school children required to meet the highly qualified requirements?

A-22 Yes. If they are hired using *Title I* funds to teach core academic subjects they are held to the same requirements as public school teachers.

Q-23. Must an LEA count all the students in participating private schools even if some of the students enrolled in the private schools reside in other districts?

A-23 Yes. The LEA must provide equitable services based on the number of students who are enrolled in participating private schools in the geographical area served by the school district.

SEAs, SAHEs, and Private Schools

Q-24. Must an SEA provide equitable services to private school teachers if it uses its *Title II, Part A* funds reserved for State activities to provide professional development?

A-24 Yes. An SEA must provide equitable services to public and private school teachers and other educational personnel in professional development activities supported by these funds.

Q-25. Do the ESEA *Title IX* requirements regarding services to private school teachers apply to activities conducted under the competitive awards made under SAHE-administered partnerships program?

A-25 Yes. The SAHE-funded grants to partnerships of IHEs and high-need LEAs must ensure that services are offered on an equitable basis to public and private school teachers since the requirements apply to grants of “financial assistance” provided to an LEA “or another entity” [Section 9501(b)(1)].

From Title IX, Part E — Uniform Provisions

SUBPART 1 — PRIVATE SCHOOLS

SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

(a) PRIVATE SCHOOL PARTICIPATION-

(1) **IN GENERAL-** Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

(2) **SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS-** Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) **SPECIAL RULE-** Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

(4) **EXPENDITURES-** Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) **PROVISION OF SERVICES-** An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) APPLICABILITY-

(1) **IN GENERAL-** This section applies to programs under —

(A) subparts 1 and 3 of part B of title I;

(B) part C of title I;

(C) part A of title II, to the extent provided in paragraph (3);

(D) part B of title II;

(E) part D of title II;

- (F) part A of title III;
- (G) part A of title IV; and
- (H) part B of title IV.

(2) DEFINITION- For the purpose of this section, the term eligible children' means children eligible for services under a program described in paragraph (1).

(3) APPLICATION- (A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

(c) CONSULTATION-

(1) IN GENERAL- To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as —

- (A) how the children's needs will be identified;
- (B) what services will be offered;
- (C) how, where, and by whom the services will be provided;
- (D) how the services will be assessed and how the results of the assessment will be used to improve those services;
- (E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and
- (F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

(2) DISAGREEMENT- If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) TIMING- The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other

educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) DISCUSSION REQUIRED- The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) PUBLIC CONTROL OF FUNDS-

(1) IN GENERAL- The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(2) PROVISION OF SERVICES-

(A) IN GENERAL- The provision of services under this section shall be provided —

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) INDEPENDENCE; PUBLIC AGENCY- In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) COMMINGLING OF FUNDS PROHIBITED- Funds used to provide services under this section shall not be commingled with non-Federal funds.

SEC. 9503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

(a) PROCEDURES FOR COMPLAINTS- The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 9501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) APPEALS TO SECRETARY- The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.